

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

**JAMES SHELLEY and
PATRICIA SHELLEY**

PLAINTIFFS

VS.

CASE NO. 4:05cv167

**COLDWELL BANKER REAL ESTATE
CORPORATION, ET AL.**

DEFENDANTS

ORDER

Defendants Coldwell Banker and Bank of Commerce have each filed motions for dismiss, arguing that plaintiffs' complaint should be dismissed for failure to comply with relevant Fifth Circuit precedent relating to the particularity of pleadings in statutory fraud actions. *See, e.g. United States v. Humana Plan of Texas, Inc.*, 336 F.3d 375, 384 (5th Cir. 2003). In their response, plaintiffs deny that their complaint fails to meet the required standards for particularity, but they have nevertheless offered to file an amended complaint setting forth more detailed allegations against defendants. The court has determined to accept plaintiffs' offer in this regard, and it is therefore ordered that plaintiffs file such an amended complaint within thirty days of this court's order today.¹

In light of the foregoing, it is ordered that plaintiffs file an amended complaint setting forth more detailed allegations within thirty days. Defendants' motions to dismiss [6-1, 49-1] are dismissed without prejudice.

¹In light of the court's conclusion in this regard, it is unnecessary to consider whether the complaint in this case is so lacking in particularity as to warrant dismissal.

SO ORDERED this 11th day of May, 2006.

/s/ Michael P. Mills
UNITED STATES DISTRICT JUDGE